

Certification of Consistency

Certification ID: C20182

Step 1 - Agency Profile

A. GOVERNMENT AGENCY:

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State Agency

☐

Local Agency

Government Agency: California Department of Fish and Wildlife Bay-Delta Region

Primary Contact: Steven Rodriguez

Address: 7329 Silverado Trail

City, State, Zip: Napa, Ca 94558

Telephone/Fax: 707 944-5521 /

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B. GOVERNMENT AGENCY ROLE IN COVERED ACTION:

☐

Will Carry Out

☒

Will Approve

☐

Will Fund

Step 2 - Covered Action Profile

IT IS RECOMMENDED THAT YOU ENGAGE IN EARLY CONSULTATION WITH DSC STAFF AND/OR COMPLETE THE COVERED ACTION CHECKLIST TO DETERMINE IF THE PLAN, PROGRAM OR PROJECT IS CONSIDERED A COVERED ACTION AND TO IDENTIFY RELEVANT REGULATORY POLICIES

A. COVERED ACTION PROFILE: ☐ Plan ☐ Program ☒ Project

Title: YBWA Habitat And Drainage Improvements

B. PROPONENT CARRYING OUT COVERED ACTION (If different than State or Local Agency):

Proponent Name: California Department of Fish and Wildlife Bay-Del

Address: 7329 Silverado Trail

City, State, Zip: Napa, Ca 94558

C. AT LEAST 10 DAYS PRIOR TO THE SUBMISSION OF A CERTIFICATION OF CONSISTENCY TO THE COUNCIL, agencies whose actions are not subject to open meeting laws (Bagley-Keene Open Meeting Act [Gov. Code sec 11120 et seq.] or the Brown Act [Gov. Code sec 54950 et seq.]) with regard to its certification, must post for public review and comment, their draft certification on their website and in their office, and mail to all persons requesting notice.

Any state or local public agency that is subject to open meeting laws with regard to its certification is also encouraged to take those actions.

(Note: Any public comments received during this process must be included in the record submitted to the Council in case of an appeal.)

If applicable, did you comply with this requirement? ☒ YES ☐ NO ☐ N/A

D. COVERED ACTION SUMMARY: (Project Description from approved CEQA document may be used here)

The proposed project includes five major improvements, identified as Project Components, that are being proposed to enhance the California Department of Fish and Wildlife's (CDFW) ability to manage wetland resources and agricultural operations within the Yolo Bypass Wildlife Area (YBWA). Specific improvements include installing new water control structures, expanding canals, installing box culverts and two con-span bridges, replacing existing culverts, raising road grades, separating dual function ditches, relocating an existing water pump, and installing two new pumps.

E. STATUS IN THE CEQA PROCESS: NOD has been filed

F. STATE CLEARINGHOUSE NUMBER: 2017122001
(if applicable)

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 3/31/2018

ANTICIPATED END DATE: (If available) 11/30/2020

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$5,000,000.00

I. IF A CERTIFICATION OF CONSISTENCY FOR THIS COVERED ACTION WAS PREVIOUSLY SUBMITTED, LIST DSC REFERENCE NUMBER ASSIGNED TO THAT CERTIFICATION FORM:

J. SUPPORTING DOCUMENTS: [YBWA Habitat and Drainage Improvement Best Science.pdf](#), [YBWA Habitat and Drainage Improvement Mitigation Measures.pdf](#), [DC Covered Actions Discussion-Spurr.pdf](#), [YBWA Habitat and Drainage Improvement Adaptive Management.pdf](#)

Step 3 - Consistency with the Delta Plan

DELTA PLAN CHAPTER 2

G P1 / 23 CCR SECTION 5002 – Detailed Findings to Establish Consistency with the Delta Plan.

In General: (23 CCR SECTION 5002 (a), (b), (1)) This regulatory policy specifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to any covered action.

This regulatory policy only applies after a “proposed action” has been determined by a State or local public agency to be a covered action because it is covered by one or more of the regulatory policies listed under Delta Plan Chapters 3, 4, 5, and 7 of this form. Inconsistency with this policy may be the basis for an appeal.

Covered actions, in order to be consistent with the Delta Plan, must be consistent with this regulatory policy and with each of the regulatory policies listed under Delta Plan Chapters 3, 4, 5 and 7 of this form implicated by the covered action. The Delta Stewardship Council acknowledges that in some cases, based upon the nature of the covered action, full consistency with all relevant regulatory policies may not be feasible. In those cases, the agency that files the certification of consistency may nevertheless determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals. That determination must include a clear identification of areas where consistency with relevant regulatory policies is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Delta Stewardship Council on appeal;

Specific requirements of this regulatory policy:

Mitigation Measures (23 CCR SECTION 5002 (b), (2))

- a. The covered action is not exempt from CEQA, and includes applicable feasible mitigation measures identified in the Delta Plan’s Program Environmental Impact Report, (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective.

Is the covered action consistent with this portion of the regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: [YBWA Habitat and Drainage Improvement Mitigation Measures.pdf](#)

Best Available Science (23 CCR SECTION 5002 (b), (3))

- b. The covered action documents use of best available science as relevant to the purpose and nature of the project.

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1A](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: [YBWA Habitat and Drainage Improvement Best Science.pdf](#)

Adaptive Management (23 CCR SECTION 5002 (b), (4))

- c. The covered action involves ecosystem restoration or water management, and includes adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1B](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: [YBWA Habitat and Drainage Improvement Adaptive Management.pdf](#)

DELTA PLAN CHAPTER 3

[WR P1 / 23 CCR SECTION 5003](#) - Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

Is the covered action consistent with this regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification:

The covered action does involve water that is used in the Delta. All water is sourced on site from agricultural tail water, natural and agricultural drainage above the Delta and existing tidal and non-tidal channels by riparian rights. No change in water sourcing will result from the project. The project will affect the residence time and scheduling of water management on wetland habitat and agricultural applications. Net influx and outflow volumes will not change. Outflow timing may change, fluctuating from present variability by an order of hours to a couple of days.

WR P2 / 23 CCR SECTION 5004 - Transparency in Water Contracting

Is the covered action consistent with this regulatory policy? [Appendix 2A](#) and [Appendix 2B](#) are referenced in this regulatory policy.

☐ YES

☐ NO

☒ N/A

Answer Justification:

The covered action does not involve entering into or amending water supply or water transfer contracts subject to section 226 of P.L. 97-293, as amended or section 3405(a)(2)(B) of the Central Valley Project Improvement Act, Title XXXIV of Public Law 102-575, as amended, (Appendix 2B), and Rules and Regulations promulgated by the Secretary of the Interior to implement these laws.

DELTA PLAN CHAPTER 4

Conservation Measure: (23 CCR SECTION 5002 (c))

A conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan that was:

(1) Developed by a local government in the Delta; and

(2) Approved and permitted by the California Department of Fish and Wildlife prior to May 16, 2013

is deemed to be consistent with the regulatory policies listed under Delta Plan Chapter 4 of this form (i.e. sections 5005 through 5009) if the certification of consistency filed with regard to the conservation measure includes a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife.

Is a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife available?

☐ YES

☐ NO

☒ N/A

Answer Justification:

The covered action does not include a natural community conservation plan or a habitat conservation plan.

ER P1 / 23 CCR SECTION 5005 - Delta Flow Objectives

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification:

The Yolo Bypass Wildlife Area falls within the Yolo Bypass, USACOE jurisdictional flood way and the NMFS Biological Opinion which includes Delta Flow objectives. The management of water by YBWA for its habitat and agricultural needs is dictated by and subordinate to these flow objectives.

ER P2 / 23 CCR SECTION 5006 - Restore Habitats at Appropriate Elevations

Is the covered action consistent with this regulatory policy? [Appendix 3](#) and [Appendix 4](#) are referenced in this regulatory policy.

☒ YES

☐ NO

☐ N/A

Answer Justification:

Minimal disturbance of habitat for channel enlargement and facility installation will be repaired by revegetation. Willow thickets will be created in new wetland areas and natural recruitment is also expected in these areas receiving improved water management. Most areas affected by the project are already managed wetlands that are dry during the warm months. Pondered areas will be enhanced by the improvement in water management. Land elevations, except in channels, will not be changed.

ER P3 / 23 CCR SECTION 5007 - Protect Opportunities to Restore Habitat

Is the covered action consistent with this regulatory policy? [Appendix 4](#) and [Appendix 5](#) are referenced in this regulatory policy.

☒ YES

☐ NO

☐ N/A

Answer Justification:

No land use changes are created by the project.

ER P4 / 23 CCR SECTION 5008 - Expand Floodplains and Riparian Habitats in Levee Projects

Is the covered action consistent with this regulatory policy? [Appendix 8](#) is referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not construct new levees or substantially rehabilitate or reconstruct existing levees.

ER P5 / 23 CCR SECTION 5009 - Avoid Introductions of and Habitat for Invasive Nonnative Species

Is the covered action consistent with this regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: The area is periodically flooded per statutes creating the Yolo Bypass and operating the the flood weirs. Entry of invasive plants into the system is beyond the control of YBWA managers. Disturbance strategies, water management and herbicides are all used to maximize food and habitat for wildlife including native and non-native species.

DELTA PLAN CHAPTER 5

DP P1 / 23 CCR SECTION 5010 - Locate New Urban Development Wisely

Is the covered action consistent with this regulatory policy? [Appendix 6](#) and [Appendix 7](#) are referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not involve new residential, commercial, or industrial development.;The covered action involves commercial recreational visitor-serving uses or facilities for processing of local crops or that provide essential services to local farms, which are otherwise consistent with this regulation.;

DP P2 / 23 CCR SECTION 5011 - Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

Is the covered action consistent with this regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification: No land use changes will result from the project. The area is already a flood facility containing habitat and water management infrastructure.

DELTA PLAN CHAPTER 7

RR P1 - Prioritization of State Investments in Delta Levees and Risk Reduction

Is the covered action consistent with this regulatory policy?

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not involve discretionary State investments in Delta flood risk management including levee operations, maintenance, and improvements.

RR P2 - Require Flood Protection for Residential Development in Rural Areas.

Is the covered action consistent with this regulatory policy? [Appendix 7](#) is referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not involve new residential development of five or more parcels.

RR P3 - Protect Floodways

Is the covered action consistent with this regulatory policy?

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action would encroach in a floodway that is a designated floodway or regulated stream. (see 23 CFR 5001(m) and 5001(aa)).

RR P4 - Floodplain Protection

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification:

Infrastructure installed in this project is typical of existing water management facilities such as pumps and ditches. Vegetation to be planted is typical of existing vegetation, and for the most part merely replaces vegetation disturbed by the installation process.